# INFORMATION BULLETIN

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## Improvement to the Refundable Tax Credit for Film Production Services and Other Fiscal Measures

This information bulletin provides a detailed description of the changes made to the refundable tax credit for film production services and changes made to other fiscal measures, mostly of a technical nature, designed to make the tax system more consistent, ensure its integrity and recognize certain special situations.

In particular, these changes concern the possible extension of the deadline for electing to split certain retirement income between spouses, adjustments to the refundable tax credit granting a work premium and correlative changes to the QST system pursuant to the reduction of the GST rate from 6% to 5% effective January 1, 2008.

For information regarding the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at : www.finances.gouv.qc.ca

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Finances Québec

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# 1. MEASURES CONCERNING INDIVIDUALS

## 1.1 Adjustments to the refundable tax credit granting a work premium

Since 2005, Québec's tax system has granted a work premium, consisting of a refundable tax credit, to low- or middle-income households.

The work premium, which was designed to ensure integration of the income security system and the tax system, has a two-fold objective, namely to support and recognize the work effort and induce people to give up social assistance and become part of the work force.

To do so, it supplements the labour income earned by an individual and, as the case may be, his spouse, up to an amount that depends on household composition.

However, to ensure that the work premium targets low- or middle-income households, it is reduced where the total income of the household exceeds a certain threshold.

Moreover, to improve the work incentive for low-income households and mitigate the effects of the "welfare trap", the Minister of Finance of Canada proposed, in the March 19, 2007 budget, to introduce a working income tax benefit or WITB.

At that time, the federal government said it was prepared to adjust its tax benefit on the basis of specific provincial and territorial changes, to harmonize it more fully with existing programs.

In recent months, the ministère des Finances du Québec has worked closely with the Department of Finance of Canada to restructure the WITB for Québec residents so that the tax benefit is harmonized with the work premium and thus bolsters the work incentive of Quebecers.

To boost efficiency and improve coordination of government action for low- or middle-income workers, various adjustments will be made, as of taxation year 2008, to the application details of the work premium, in particular to standardize them more fully with those of the WITB.

These adjustments will cover eligibility for the work premium, the type of labour income giving rise to it and the determination of total income used for the purposes of its reduction.

## ❑ Eligibility for the work premium

Briefly, the work premium is designed for any individual who is a resident of Québec at the end of a year or, if he died during the year, on the date of his death, provided he is, at that time, an adult person, an emancipated minor, the spouse of another individual or the father or the mother of a child with whom he resides. However, if another person benefited, regarding the individual, from certain tax relief measures for the year,[1] the individual cannot be eligible for the work premium for the year.

The composition of an individual's household (single person, childless couple, single-parent family and couple with children) is an important factor in determining the amount of the work premium he may receive. The maximum amount of the work premium is higher for households with children and for childless couples than for single persons.

For instance, for 2008, the maximum amount of the work premium will be $2 861 for a couple with children, $2 218.80 for a single-parent family, $801.08 for a childless couple and $517.72 for a single person.

To that end, an individual is considered to have lived as a couple during a year if he has an eligible spouse for the year. Essentially, an eligible spouse of an individual, for a given year, is the person who is his spouse at the end of the year[2] and who, at that time, does not live apart from the individual or, where the individual does not have a spouse at the end of the year,[3] the last person who was, during the year, his spouse, if such person died during the year and if she was, at the time of death, the spouse of the individual and did not live apart from him.[4]

In addition, to be considered as head of a single-parent family or a member of a couple with children, the individual claiming the work premium must designate as a dependant, among his children or, as the case may be, those of his eligible spouse, one child regarding whom tax assistance is granted.

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1 This is the case where a person received, regarding the individual, the refundable child assistance tax credit during the year – where the individual had not reached age 18 before December 1 of the year – or deducted, regarding the individual, an amount in the calculation of his tax payable for the year on account of the tax credit for minor children who are students or the transfer, by the individual, of the recognized parental contribution. This is also the case where a person included, regarding the individual, an amount in the calculation, for the year, of the refundable tax credit for residents of a northern village or where a person designated, for the year, the individual as a dependant for the purposes of the work premium.

2 Where the individual dies before the end of the year, the eligible spouse of the individual is the person who is his spouse at the time of his death, unless such person lived apart from the individual at that time or is the spouse of another individual at the end of the year or, if the person died during the year, at the time of the person's death.

3 Where the individual dies before the end of the year and did not have a spouse at the time of death, the eligible spouse of the individual is the last person who was, during the year, his spouse, if such person died during the year and was, at the time of death, the spouse of the individual and did not live apart from him.

4 For the purposes of this definition, a person is not considered to be living apart from an individual, at any time of the year, unless he lives apart from the individual at that time because of breakdown of their union and if such separation continued for a period of at least 90 days including that time.

Currently, a person's incarceration during a year or the fact that an individual's spouse does not live with him has no impact on the work premium, whereas these situations can reduce, and even cancel, the assistance granted by the income security system or the WITB.

Accordingly, to better define eligibility for the work premium, changes will be made to prevent a work premium from being granted or increased for certain persons who remain incarcerated at the end of a year, and from being increased regarding a spouse who is not a resident of Québec at the end of a year.

### ■ Incarcerated persons

The tax legislation will be amended to stipulate that a person cannot be entitled to the work premium for a given year if, at the end of the year or, where such person died during the year, at the time of death, he is held in a prison or similar establishment for one or more periods totalling more than six months during the year. In addition, such a person may not, for that year, be considered as the eligible spouse of an individual or designated by an individual as a dependant.

For greater clarity, a person who has been granted temporary leave from the prison or similar establishment in which he is incarcerated will, for the purposes of the provisions relating to the work premium, be deemed held in such prison or such similar establishment during each day of the year where he has been granted such leave.

### ■ Non-resident spouse

The definition of the expression "eligible spouse" of an individual for a year will be changed to stipulate that a person may be considered as such only if, at the end of the year or, where such person died during the year, at the time of death, he was a resident of Québec.

## ❑ Labour income giving rise to the work premium

Labour income is a key factor for establishing the maximum amount of the work premium to which a household is entitled. The maximum amount of the work premium is obtained by applying, depending on the household's composition, the specified rate to the excess, over the excluded labour income, of the lesser of the household's labour income and the reduction threshold. The following table shows the parameters that will apply for determining the maximum work premium for 2008.

**Parameters used for determining the maximum work premium**
(2008)

| | Single person | Childless couple | Single-parent family | Couple with children |
|---|---|---|---|---|
| Specified rate | 7% | 7% | 30% | 25% |
| Excluded labour income | $2 400 | $3 600 | $2 400 | $3 600 |
| Reduction threshold | $9 796 | $15 044 | $9 796 | $15 044 |
| Maximum work premium | $517.72 | $801.08 | $2 218.80 | $2 861 |

An individual's household labour income, for a given year, is equal to the total labour income, for the year, of the individual and of his eligible spouse for the year.

Essentially, an individual's labour income, for a given year, corresponds to the total of his income, for a year, from an office or employment calculated excluding deductions for depreciation, and of his income, for the year, from a business calculated excluding deductions for depreciation or for a final loss, less his losses thus calculated, for the year, in relation to a business.

So that more workers can be entitled to the work premium, changes will be made to the composition of an individual's labour income. By reducing the differences between the labour income used for the purposes of the work premium and of the WITB, these changes will generally simplify the task for workers.

More specifically, an individual's labour income, for a given year, will mean an amount equal to the total of the following amounts:

— the wages, salaries and other remuneration, including gratuities,[5] he included in the calculation of his income for the year from any office or any employment;

— his income for the year from any business carried on alone or as an actively participating partner;

— any amount included in the calculation of his income for the year on account of a grant to undertake research or similar work.

However, where the individual is an Indian, he may not include, in the calculation of his labour income for the year, the income situated on a reserve or premises.

5 This expression includes both attributed tips and those reported to the employer.

### ❑ Determination of total income

To see that the work premium is granted solely to low- or middle-income households, the maximum work premium otherwise determined must be reduced on the basis of the household's total income. This reduction applies at a rate of 10% for each dollar of the household's total income in excess of the reduction threshold of the work premium applicable to the household.

According to the current legislation, an individual's total household income, for a given year, corresponds to his income for the year to which must be added, if applicable, the income of his eligible spouse for the year and the portion, in excess of $6 730 (in 2008), of the income of the dependant he has designated for the year.

To give full recognition to the work effort of parents, the tax legislation will be amended to stipulate that the income used to reduce the maximum work premium will, like the income used for the purposes of the WITB reduction, be determined taking into account only the income of the individual and that of his eligible spouse, if any.

## 1.2 Possible extension of the deadline for electing to split certain retirement income between spouses

Since 2007, Québec's tax system includes, as does the federal system, a splitting mechanism that allows couples that receive certain retirement income to reduce their overall tax burden.

Under this mechanism, which operates on a consensual basis, one of the members of a couple can deduct, in calculating his or her income, an amount not exceeding 50% of all his retirement income eligible for splitting, while the other member must include this amount in the calculation of his or her income.

Although, for the purposes of Québec's system, couples can generally make an election separate from the one made for the purposes of the federal system, it was announced, as part of the May 24, 2007 Budget Speech, that the method for making this election and the deadline by which it must be made would be similar under the two systems.

More specifically, it was announced that Québec's tax legislation would be amended to incorporate the federal measure relating to the obligation, for the members of a couple wishing to elect the mechanism for splitting certain retirement income for a given year, to make a joint election on a prescribed form that they must include with their tax return for the year, no later than the filing-due date applicable to them.[6]

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6 Either no later than April 30 of the following year or, if one of the members of the couple carries on a business, no later than June 15 of the following year. However, if one of the members of the couple dies before the day following the filing-due date that would otherwise apply to him, the joint election must be filed no later than such date or within the six months following the death.

A new legislative provision on the election to split certain retirement income between spouses was introduced in Bill C-28, *An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007*, presented on November 21, 2007 and assented to on December 14, 2007.

According to this new legislative provision,[7] upon request from a taxpayer, the Minister of Revenue of Canada may, without penalty, extend the deadline for making the election to split certain retirement income between spouses or allow the election to be changed or cancelled, provided certain conditions are satisfied.

Québec's tax legislation will be amended, as of taxation year 2007, to incorporate, on the basis of its specific features, the measures arising from the new federal provision on the election to split certain retirement income between spouses. For greater clarity, the request for authorization to make such a late election or to change or cancel a prior election must be made in writing and jointly by the interested parties.

## 1.3 Non-inclusion of certain allowances for board and lodging paid to young athletes

Subject to an exception to the contrary, an individual must include, in calculating his employment income, the value of board, lodging and other benefits he receives because of his employment as well as the allowances he receives for his personal expenses, living expenses or for any other purpose.

Moreover, his employer must satisfy certain obligations regarding withholdings at source and payment of employer contributions on the benefits and the allowances he provides, in the same way as on the wage or salary he pays.[8]

While certain contributions paid by employees, where they exceed the amount due, are refundable at the filing of their tax returns, refunds of employer contributions are not always possible. For example, an employer who pays an employee allowances for board and lodging may have to pay employer contributions to the Québec Pension Plan even if all his employee's earnings for the year are less than or equal to his personal exemption.

The federal tax legislation was amended on June 22, 2007 to exclude, from the calculation of a young athlete's employment income, the allowances they receive for board and lodging where they participate in certain activities.

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7 Section 61 of the *Act to implement certain provisions of the budget tabled in Parliament on March 19, 2007 and to implement certain provisions of the economic statement tabled in Parliament on October 30, 2007*.

8 Essentially, these are contributions payable under of the *Act respecting the Québec Pension Plan*, the *Act respecting parental insurance*, the *Employment Insurance Act*, the *Act respecting the Régie de l'assurance maladie du Québec*, the *Act respecting labour standards* and the *Act respecting industrial accidents and occupational diseases*.

This measure is designed essentially to ease the burden of payroll taxes of non-profit organizations (NPO) that take care of a sports team or a recreational program, in which participation is restricted to persons under age 21.

Briefly, this measure stipulates that an allowance for board and lodging, up to $300 per month, indexed to the cost of living, will not be included in the calculation of the income of a taxpayer who enrols in a sports team or a recreational program if it is reasonable to attribute the allowance to the fact of living away from the place where he would normally live were it not for his participation in the activity. In addition, the allowance must not be related to services he provides as a coach, instructor, trainer, referee, administrator or other similar occupation.

Accordingly, not only will the maximum monthly amount of $300 not be taxable for individuals under age 21, but the non-inclusion of this amount in the calculation of their income will also allow certain NPOs to reduce their employer contributions.

Given that, in general, Québec's tax system is harmonized with the federal tax system regarding the determination of income from an office or employment, Québec's tax legislation will be amended to incorporate, on the basis of its specific features, the federal measure relating to the non-taxation of certain allowances for board and lodging paid to young athletes. For greater clarity, as of taxation year 2008, the amount of $300 per month will be automatically indexed annually on the basis of the index used to adjust the main parameters of the personal income tax system.[9]

This measure will be applicable to taxation years ending after June 22, 2007.

## 1.4 Restriction concerning eligibility for the refundable tax credit for the Québec sales tax

The refundable tax credit for the Québec sales tax (QST) provides low- or middle-income households with a refund of a significant portion of the QST paid during a year on essential goods and services they consume.

Briefly, this tax credit is granted to an individual who, at the end of a year, resides in Québec and is either age 19 or over, an emancipated minor, the spouse of another individual, or the father or the mother of a child with whom he of she resides, unless such individual is, among others, a person regarding whom his father or his mother deducted, for the year, an amount on account of the transfer, by such person, of the recognized parental contribution.

9 Where the amount resulting from the indexing is not a multiple of 5, it will be adjusted to the closest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest greater multiple of 5.

The maximum amount that can be granted to an individual on account of this tax credit for a given year is determined on the basis of a basic amount of $172, to which one of the following amounts can be added:

— an amount of $172 if the individual has an eligible spouse for the year;

— an amount of $117 if the individual does not have an eligible spouse for the year and if, during the entire year, he normally lives in a self-contained domestic establishment in which no other person entitled to the tax credit lives.

The maximum amount thus determined is reduced at a rate of 3% for each dollar of the individual's family income (i.e. the income of the individual and that of his eligible spouse, if any) in excess of $29 290.

Each of the parameters of the refundable tax credit for the QST, except the 3% reduction rate, is automatically indexed annually.

For the purposes of this tax credit, an eligible spouse of an individual for a given year is the person who is his spouse at the end of the year and who, at that time, does not live apart from the individual or, where the individual does not have a spouse at the end of the year, the last person who was, during the year, his spouse if such person died during the year and was, at the time of death, the spouse of the individual and did not live apart from him.[10]

However, where a person is held, at the end of a year or, if such person died during the year, at the time of death, in a prison or similar establishment for one or more periods totalling more than six months during the year, such person cannot be considered the eligible spouse of any individual for the year.

Currently, the fact that the spouse of an individual is not a resident of Québec has no impact on the determination of the maximum amount of the tax credit to which the individual may be entitled, even if the primary objective of this tax credit is to reduce the tax burden attributable to the QST generally paid regarding goods or services acquired in Québec.

Accordingly, to better reflect the primary objective of the refundable tax credit for the QST, the definition of the expression "eligible spouse" of an individual for a year will be changed, as of taxation year 2008, to stipulate that a person cannot be considered as such unless, at the end of the year or, where such person died during the year, at the time of death, he or she is a resident of Québec.

10 For the purposes of this definition, a person is not considered to be living apart from an individual, at any time of the year, unless he lives apart from the individual at that time because breakdown of their union and if such separation continued for a period of at least 90 days including that time.

For greater clarity, for the purposes of calculating the maximum amount of the tax credit to which an individual may be entitled for a given year, the individual whose spouse resided outside Québec at the end of the year (or at the time of his death) may benefit of the increase granted to individuals who have no eligible spouse for the year, provided that, during the entire year, such individual normally lived in a self-contained domestic establishment in which no other person entitled to the tax credit lived.

## 1.5 Sending of information to Revenu Québec by educational institutions

The tax system grants parents of a minor child enrolled in full-time[11] vocational or postsecondary studies a non-refundable tax credit designed to recognize that a child enrolled in such studies has essentially the same needs as an adult.

Adult children enrolled full-time[12] in such studies have the possibility of transferring to their parents a certain amount on account of the recognized parental contribution to enable them to reduce their tax payable.

For the purposes of either of these measures for a given year, the child must have begun and completed in the year a study term in an educational institution that is designated by the Minister of Education, Recreation and Sports for a grant of financial assistance under the *Loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level*, where he was enrolled in a recognized educational program.

A recognized educational program is an educational program under which the student participating in it must devote on a weekly basis at least nine hours to courses or to work stipulated in the program[13] and that consist of:

— where the designated educational institution is located in Québec, an educational program recognized by the Minister of Education, Recreation and Sports for the purposes of the *Loans and bursaries program for full-time studies in vocational training at the secondary level and for full-time studies at the postsecondary level*;

— where the designated educational institution is located outside Québec, an educational program at the college, university or equivalent level.

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11 In this regard, a person is deemed to be enrolled in full-time studies where he suffers from a major functional deficiency within the meaning of the *Regulation respecting financial assistance for education expenses* and, for this reason, is enrolled in part-time studies.

12 *Supra*, note 11.

13 Where a person is deemed to be enrolled in full-time studies because he suffers from a major functional deficiency, the educational program must be one under which the student participating in it receives a minimum of 20 hours of instruction per month.

For tax assistance to be granted to the parents, their child's enrolment at a designated educational institution in a recognized educational program must be certified in an information return submitted to the Minister of Revenue, on a prescribed form (Relevé 8), issued by the educational institution and containing prescribed information.

A taxpayer who claims a tax credit regarding a minor child who is a student, or who transfers to his parents an amount on account of the recognized parental contribution, must enclose Relevé 8 with his tax return, unless the tax return is filed electronically. In that case, the Relevé 8 must be retained to be filed with Revenu Québec on request.

Currently, although they are not required to do so, designated educational institutions voluntarily complete Relevé 8 and send it to the students by mail, in person or over the internet.

However, since no copy of the Relevé 8 is sent to Revenu Québec by designated educational institutions, Revenu Québec must, in the course of auditing tax returns filed electronically, contact the taxpayers concerned to obtain this information slip.

To facilitate tax administration, amendments will be made to the tax regulations to stipulate that designated educational institutions located in Québec must, as of 2008, file a Relevé 8, no later than the last day of February of the following year, for each student enrolled full-time[14] in a recognized educational program who has completed at least one study term begun in the year. The information returns thus filed for a year must be sent to Revenu Québec by educational institutions by the same deadline.

For greater clarity, designated educational institutions may continue to send their students, using the method they consider appropriate (by mail, in person or over the internet), the Relevé 8 produced for them.

## 1.6 Clarifications relating to tax averaging mechanisms

The tax system stipulates that an individual who, in a given year, pays arrears of deductible support allowance or repays such support allowance must, in general, use a special mechanism, hereunder called "retroactive payments averaging mechanism", to calculate his tax payable for the year. An individual who, in a given year, receives certain retroactive payments,[15] all or part of which relate to a prior year, can also use this mechanism to calculate his tax payable for the year.

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14 Supra, note 11.

15 Essentially, an income from an office or employment received further to a judgement, arbitration ruling or contract by which the parties settle a lawsuit, a benefit under the *Act respecting the Québec Pension Plan*, the *Canada Pension Plan* or the federal employment insurance legislation, a deductible support allowance and any other amount, other than an income from an office or employment, whose taxation in the year of receipt would result, in the view of the Minister of Revenue, in an undue additional tax burden.

An individual who, during a given year, repays benefits received under the Québec Pension Plan, the Québec parental insurance plan, the Canada Pension Plan or the employment insurance plan that were included in the calculation of his income for a prior year can make use of another averaging mechanism, hereunder called "averaging mechanism for the repayment of a specified benefit", to calculate his tax payable for the year of the repayment.

The purpose of these averaging mechanisms is to prevent an individual from having a tax payable different from what he would have had if the amounts eligible for these mechanisms had been received, paid or repaid, as the case may be, in the year to which they relate.

Where, for a given year, an individual makes use of the retroactive payments averaging mechanism, such individual must increase or reduce, as the case may be, his tax payable for the year by an amount equal to all the amounts each representing the tax adjustment relating to the averaging attributable to a given prior year to which relates an amount received, paid or repaid during the year.

Briefly, the amount of the tax adjustment relating to the averaging attributable to a given prior year is determined taking into account, among other things, the difference between the hypothetical tax payable and the actual tax payable for such prior year and the unused amount of tax credits transferred for such year to another person (generally the spouse) that could not then be transferred.

The individual who makes use, for a taxation year, of the averaging mechanism for the repayment of a specified benefit can claim a refundable tax credit equal to all the amounts each representing the excess of the hypothetical tax payable for a prior year to which the amount repaid relates, calculated without taking the repayment into account, over the hypothetical tax payable for such year.

For the purpose of these averaging mechanisms for a given year, the hypothetical tax payable for a prior year represents the tax that would have been payable for such year if the portion of each amount submitted to either of the averaging mechanisms (for the given year or a prior year) that relates to such prior year had been included or deducted, as the case may be, in the calculation of taxable income for such prior year.

To preserve the integrity of the tax system, clarifications will be made to the rules governing these averaging mechanisms.

More specifically, the tax legislation will be amended to stipulate that, where, for a given taxation year, an amount is deducted in the calculation of the tax payable by a person on account of the transfer, by an individual, of the recognized parental contribution or of the unused portion of the tax credit for tuition and examination fees, such amount must, for the purposes of the retroactive payments averaging mechanism for a taxation year after 2007, be taken into consideration for the purposes of the calculation of the amount of the tax adjustment relating to the averaging attributable to the given year to which relates the amount received, paid or repaid by the individual.

In addition, the tax legislation will be amended, as of taxation year 2007, to stipulate that:

— any amount that is not otherwise deducted in the calculation of taxable income or of tax payable for a taxation year covered by the averaging, but that is to establish the hypothetical tax payable for such year, will be deemed to have been deducted in the calculation of taxable income or tax payable, as the case may be, for such year;

— any amount deducted, in the calculation of taxable income or of tax payable, for a taxation year after the one covered by the averaging, cannot be taken into consideration to establish the hypothetical tax payable for the taxation year covered by the averaging;

— any amount that is not deducted in the calculation of taxable income or of tax payable, for a taxation year, but is to establish the hypothetical tax payable for a taxation year covered by the averaging, cannot be taken into consideration, in the application of an averaging mechanism to another taxation year, to establish the hypothetical tax payable for such other taxation year.

# 2. Measures Pertaining to Businesses

## 2.1 Legislative consolidation of non-tax parameters of certain fiscal measures

Various forms of government assistance can be extended to businesses, such as grants, conditionally repayable loans or tax incentive measures, to support and guide Québec's economic development or promote Québec's cultural identity.

For many years, tax incentive measures have played an important role among the various types of intervention the government has used to assist companies. In particular, these fiscal measures can consist of a deduction in the calculation of taxable income or a deduction in the calculation of tax payable, but generally they consist of a refundable tax credit.

The administration of these tax incentive measures, like any other fiscal measure, is Revenu Québec's responsibility. However, because of the specific objectives of most of these measures, the administration of some of their parameters requires the cooperation and expertise of public organizations[16] other than Revenu Québec. In such a case, the monolithic administration of fiscal measures traditionally carried out by Revenu Québec is set aside in favour of joint administration that involves another public organization.

The role of the other public organizations is to ensure compliance with the non-tax parameters established by the ministère des Finances. Briefly, the non-tax parameters of a tax incentive measure are those whose administration comes under a public organization with relevant sector-based expertise. For instance, the Société de développement des entreprises culturelles (SODEC) is responsible for assessing the eligibility of a Québec film production for the purposes of a refundable tax credit in the cultural field, while Investissement Québec is charged with assessing the eligibility of the activities of a business carried on in a resource region for the purposes of a refundable tax credit that may be granted in that regard.

In this context, the sector-based expertise of public organizations is a major contribution because it generally allows the companies covered by tax incentive measures to be informed of the eligibility of their project for tax assistance. Accordingly, the speed of the interventions of these public organizations helps to influence the decision-making of entrepreneurs and give full effect to the catalyst role of tax incentive measures.

In recent years, the number of tax incentive measures involving joint administration by Revenu Québec and another public organization has grown substantially, generating a considerable quantity of non-tax parameters under the authority of many different public organizations.

16 The expression "public organizations" designates corporations and departments that currently are mandated to administer the non-tax parameters of certain fiscal measures.

Currently, not all non-tax parameters are contained in a statute or regulation. Indeed, only the non-tax parameters concerning the cooperative investment plan (CIP), international financial centres (IFCs), and Québec film and television productions are contained in a statute or regulation administered, respectively, by the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE), the ministère des Finances and SODEC.

### ❑ Introduction of a parent legislation

To correct this situation and facilitate access to all the non-tax parameters of the tax incentive measures that involve the participation of a public organization other than Revenu Québec, legislation consolidating all these non-tax parameters will be enacted.

More specifically, from now on, all the non-tax parameters to be administered by public organizations will be consolidated in this legislation, which will attribute legislative authority to act to these organizations.[17] In addition, the regulations that will be made pursuant to this legislation may have retroactive effect.

### ■ Standardization of certain actions of public organizations

The consolidation of the non-tax parameters within one statute will standardize certain actions of public organizations that will administer these parameters, including those described below.

#### • Audit

All public organizations that administer non-tax parameters will be invested with audit authority, including in particular the power to enjoin recipients of the tax incentive measures concerned to produce, upon request, the documents needed for the administration of non-tax parameters.

17 For greater clarity, the authority of the MDEIE in relation to the CIP, of the ministère des Finances in relation to the IFCs and of SODEC in relation to Québec film and television productions will be incorporated into the new statute, as well as all the non-tax parameters of these measures. Consequently, the appropriate amendments will be made to the *Cooperative Investment Plan Act*, the *Act respecting international financial centres*, and the *Act respecting the Société de développement des entreprises culturelles* and to the *Regulation respecting the recognition of a film as Québec films* that is enacted pursuant to the *Cinema Act*.

- **Review**

A standard review procedure of the decisions made by public organizations will be introduced. The review procedure will be able to quickly resolve disputes between taxpayers and the public organizations concerned. In this regard, the time required for the review procedure will be short, since the tax incentive measures containing non-tax parameters administered by public organizations are government assistance measures with the objective in particular of stimulating economic development in Québec. In this context, this review procedure will not be an adversarial process taking place before a third party, but rather a mechanism under which the public organization must take a second look at its decision and review it in light of the non-tax parameters it is mandated to administer.

- **Fees**

All public organizations will have the power to charge fees to cover the cost of the services they provide in administering the non-tax parameters of tax incentive measures.

## ■ Exchange of information

Revenu Québec and the public organizations that administer the non-tax parameters of certain tax incentive measures are called on to exchange information in order to manage these measures properly.

Moreover, the ministère des Finances formulates these tax incentive measures and assesses their effectiveness. To do so, it needs to know certain information provided to Revenu Québec and public organizations regarding these measures.

The communication by Revenu Québec of information it has obtained in the course of the administration of these measures is already covered by the *Act respecting the ministère du Revenu*, while public organizations cannot provide either Revenu Québec or the ministère des Finances with information without a legislative provision to that effect.

In that context, the statute consolidating all the non-tax parameters of tax incentive measures will contain provisions stipulating the possibility for public organizations to provide Revenu Québec and the ministère des Finances with information they obtain in the course of their mandate to administer non-tax parameters.

■ **Prior decisions of public organizations**

To ensure the stability of decisions made and steps taken by public organizations before the statute consolidating all the non-tax parameters of tax incentive measures comes into effect, the statute will contain a provision to prevent any recourse against decisions made and steps taken, before its coming into force, by public organizations in the course of their mandate to administer non-tax parameters. However, this provision will not apply to cases pending before the courts the day of publication of this information bulletin.

❑ **Application date**

This parent legislation, as well as the consequential amendments it will entail in other statutes, will become effective the day of publication of this information bulletin.

## 2.2 Changes to the refundable tax credit regarding major employment-generating projects

As part of the April 21, 2005 Budget Speech, a refundable tax credit was introduced regarding major employment-generating projects in the information technology sector.

Briefly, this tax credit, whose rate is 25%, is granted to a corporation regarding wages paid to its eligible employees[18] working in the course of carrying out an eligible contract.[19] However, such a corporation must obtain an eligibility certificate from Investissement Québec confirming that it operates in the information technology sector and that it is reasonable to consider that by carrying out the eligible contract the corporation has entered into, a minimum of 150 jobs will be created within 24 months following the date the activities covered by the contract begin to be carried out.

Essentially, this tax credit was introduced to consolidate the development of information technology throughout Québec, while encouraging companies to locate here and expand.

Follow-up of this tax credit since its inception has indicated a need to make certain clarifications on various aspects of the existing rules, in particular because it may no longer be claimed regarding contracts entered into after December 31, 2007.

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18 An eligible employee means an employee of an establishment in Québec of the eligible corporation for whom Investissement Québec has issued an eligibility certificate certifying, among other things, that at least 75% of his duties consist of undertaking, supervising or directly supporting activities carried out in the course of an eligible contract.

19 An eligible contract means a contract regarding which Investissement Québec has issued an eligibility certificate certifying that the activities carried out in the course of the contract are included under one of the three components of the information technology sector that are eligible.

### ❑ Deadline for applying for an eligibility certificate from Investissement Québec

Although a contract cannot be eligible if it is entered into after December 31, 2007, the existing rules do not stipulate a deadline for filing a certification application with Investissement Québec regarding a contract validly entered into no later than that date.

Accordingly, to delimit the period during which an eligible corporation may apply for certification regarding a contract entered into no later than December 31, 2007, the rules will be changed to require that such application be filed with Investissement Québec no later than March 31, 2008.

### ❑ Starting point for the computation of the 24-month period

Currently, the starting point for the computation of the 24-month period at the end of which the eligible corporation must have reached the minimum job creation threshold of 150 jobs is the date on which the activities covered by the contract begin to be carried out. While it is acknowledged that there may be a lapse of time between the date the contract is entered into and the date the activities begin to be carried out, in fact it transpires, without limitation, that the current rules allow too much latitude in setting the starting point of the computation of the 24-month period.

To correct this situation, the existing rules will be changed so that the starting point of the 24-month period, at the end of which the eligible corporation must have reached the minimum job creation threshold of 150 jobs, will begin no later than whichever of the following dates occurs first: December 31, 2008 or the date the activities covered by the contract begin to be carried out.

This change will apply to an eligible contract regarding which Investissement Québec issues an eligibility certificate as of the date of publication of this information bulletin.

### ❑ Clarification regarding the rule relating to a non-arm's length contract

Under the rule relating to a non-arm's length contract, a sub-contract entered into by an eligible corporation and a person with whom it is not at arm's length may qualify as an eligible contract where the eligible corporation is able to show Investissement Québec that such a contract relates to services ultimately provided to person with whom it is at arm's length, on the one hand, and to a business carried on by the latter person outside Québec, on the other. This rule was developed in particular to cover the case of a non-resident corporation awarding a sub-contract to a Québec subsidiary.

To prevent this rule from being applied in contexts other than the one for which it was put in place, a change will be made such that the existing rule will apply only to the extent that the activities a corporation awards by sub-contract to a person with whom it is not at arm's length are not activities that previously were carried out in Québec.

For greater clarity, these activities previously carried out in Québec will be excluded activities. Consequently, the time devoted by an employee to carrying out these excluded activities will be considered not being devoted to carrying out activities in the course of an eligible contract, both for achieving the minimum threshold of 150 jobs and for determining eligible salaries.

This change will apply to an eligible contract regarding which Investissement Québec issues an eligibility certificate as of the date of publication of this information bulletin.

## 2.3 Three-month extension of the deadline for beginning to carry out a certified business for the purposes of receiving the refundable tax credits granted in certain regions

In recent years, three refundable tax credits were put in place to encourage job creation in Québec's resource regions, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

Briefly, these tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in one of the specified regions until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities are aimed in particular at the manufacturing and processing sectors. However, to receive a tax credit, an eligible corporation must begin to carry on a certified business in one of these regions no later than during calendar year 2007.

Moreover, it was announced in the February 20, 2007 Budget Speech that a task force would be set up to carry out a detailed analysis of the impact, on companies in Québec, of the end of the fiscal measures intended for companies in the resource regions and companies in the new economy.[20]

The task force is scheduled to file its report by the end of 2007. Accordingly, because of the time needed to assess the recommendations of the task force, the deadline for beginning to carry on a certified business will be extended by three months.

20 The formation of this task force was confirmed in the May 24, 2007 Budget Speech.

Thus, to receive any of these tax credits, an eligible corporation must begin to carry on a certified business in an eligible region no later than March 31, 2008.

However, for greater clarity, this extension will not result in extending the period during which a given corporation may receive such a tax credit, which ends on December 31, 2009.

## 2.4 Recognition of an eligible public research centre

A taxpayer may obtain a 35% refundable tax credit for university scientific research and experimental development (R&D) relating to R&D activities where they are carried out by an eligible public research centre under a contract the taxpayer enters into with such centre.

In this regard, it is up to the ministère des Finances to recognize a research centre as an eligible public research centre.

More specifically, to be recognized as an eligible public research centre for the purposes of the tax credit for university R&D, a research centre must demonstrate its capacity, in terms of human, material and financial resources, to carry out R&D work for companies. Accordingly, the employees must have the qualifications required to carry out R&D work awarded on a sub-contracting basis to the research centre, and the research centre must have premises and equipment that enable it to do the work in its field of expertise.

In addition, the research centre must obtain most of its financing from public funds.

Moreover, all research centres recognized by the ministère des Finances as eligible public research centres, for the purposes of the tax credit for university R&D, must annually confirm with the ministère des Finances that they satisfy the eligibility criteria mentioned above. This annual return relates to a calendar year and must be filed no later than the last day of February following such calendar year.

Lastly, an eligible public research centre must advise the ministère des Finances as soon as a change occurs involving human, material or financial resources that could compromise its capacity to carry out R&D work for companies or to satisfy the requirement concerning the source of its funding.

A new research centre will be recognized for the purposes of the tax credit for university R&D, namely MUSILAB INC.

This recognition will apply regarding R&D carried out after December 31, 2006 under an eligible research contract concluded after that date.

## 2.5 Impact of federal government assistance on the determination of Québec tax assistance

The tax system includes a number of incentive measures to encourage certain behaviour or certain activities. In general, the amount of assistance granted to a taxpayer eligible for any of these measures is determined on the basis of an eligible expenditure incurred and paid by the taxpayer or by an eligible partnership of which the taxpayer is a member, which expenditure may relate, among other things, to the salary of an employee or to the acquisition of an eligible asset.

Moreover, the determination of the amount of expenditure eligible for tax assistance, whether the assistance is granted under federal or Québec legislation, is made considering various items. Accordingly, in general, both at the federal level and in Québec, the amount of an eligible expenditure that gives rise to a tax credit or to a capital tax credit, for a given taxation year, must be reduced by any amount of government or non-government assistance attributable to such expenditure that the taxpayer or the partnership received or is entitled to receive, no later than the filing deadline for its tax return for the given taxation year or no later than six months after the end of the fiscal year of the partnership, as the case may be.

The application of such a rule can entail a circular calculation where the same expenditure can give rise to tax assistance under both Québec legislation and federal legislation. Accordingly, to prevent such a circular calculation, a change will be made to the determination of two Québec incentive measures, namely the capital tax credit regarding certain investments and the refundable tax credit for on-the-job training periods.

### 2.5.1 Change to the capital tax credit regarding certain investments

The April 21, 2005 Budget Speech introduced a capital tax credit to reduce the burden of tax on capital on corporations that make certain investments.

Briefly, this capital tax credit enables a corporation, other than a financial institution, that makes an eligible investment during a taxation year, to receive a non-refundable capital tax credit, for such taxation year, equal to 15% of the amount of such eligible investment.[21]

Accordingly, a corporation can receive this capital tax credit, for a taxation year, up to the amount of tax on capital otherwise payable by it for such taxation year. Where the capital tax credit exceeds the tax on capital otherwise payable by the corporation for the taxation year, such excess can be carried over to subsequent taxation years and applied against the tax on capital payable by it for such years.

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21 The rate of the capital tax credit was initially set at 5%. It was raised to 10% in the February 20, 2007 Budget Speech for investments made after that date and to 15%, in Information Bulletin 2007-9, for investments made after November 23, 2007. However, for certain investments made in certain forestry sectors, the 15% rate has applied since March 23, 2006.

The investments eligible for the capital tax credit are manufacturing and processing equipment, i.e. assets of class 43 of Schedule B of the *Regulation respecting the Taxation Act*.[22]

According to the existing terms and conditions, the amount of the eligible investment that gives rise to a capital tax credit, for a given taxation year, must be reduced in particular by any amount of government assistance attributable to such investment that the corporation received or is entitled to receive, no later than the filing deadline for its tax return for the given taxation year.

Moreover, the federal tax legislation allows a taxpayer to receive an investment tax credit of 10% on the acquisition of eligible goods used, among others, in manufacturing or processing activities, where such assets are used in the Maritime Provinces or the Gaspé peninsula. The assets of class 43 of Schedule II of the *Income Tax Regulations* being eligible assets for the purposes of the investment tax credit, a corporation that acquires an asset of class 43 in order to use it in the Gaspé peninsula may therefore be eligible both for the investment tax credit and the capital tax credit.

The federal tax legislation also stipulates that government assistance received or receivable by the taxpayer and attributable to an eligible asset acquired during a given taxation year must reduce the capital cost of such asset for the determination of the federal investment tax credit and, for the purposes of this measure, the capital tax credit constitutes an amount of government assistance.

Accordingly, the simultaneous application of federal and Québec rules can lead to a circular calculation since the same expenditure can give rise both to the federal investment tax credit and the capital tax credit.

In such a situation, the determination of the amount of the eligible expenditure, for the purposes of the federal investment tax credit, must include the capital tax credit received or receivable while the determination of the amount of the eligible expenditure, for the purposes of the capital tax credit, must include the federal investment tax credit received or receivable.

Accordingly, to prevent such circularity, a change will be made to the determination of the capital tax credit so that the federal investment tax credit does not constitute government assistance in the determination of the amount of the investment eligible for the capital tax credit.

The application of this amendment will be declaratory.

22 However, these assets must satisfy certain conditions to qualify as eligible investments, among others, the obligation to begin being used within a reasonable time, during a period of at least 730 days, only in Québec and mainly in the course of carrying on a business. Similarly, the assets must be new.

### 2.5.2 Change to the refundable tax credit for on-the-job training periods

Briefly, a taxpayer may, under certain conditions, claim a refundable tax credit for on-the-job training periods where a student enrols in an on-the-job training period with a business he carries on in Québec or that a partnership of which he is a member carries on in Québec. The rate of this tax credit is 30% where the employer is a corporation and 15% in other cases.

Accordingly, the refundable tax credit for on-the-job training periods is calculated on the basis of the eligible expenditure regarding a trainee, which consists of the wages and salaries the trainee received in the course of an eligible training period, and those that a supervisor received for the hours he devoted to supervising the trainee.

In the May 2, 2006 federal Budget Speech, the federal investment tax credit for the creation of apprenticeship jobs was introduced to encourage employers to hire apprentices practicing an eligible trade.

In addition, as in the case of the refundable tax credit for on-the-job training periods, the eligible expenditure for the purposes of the federal investment tax credit for the creation of apprenticeship jobs must be reduced by the amount of any government or non-government assistance an eligible taxpayer received or is entitled to receive, and that relates to such expenditure.

Accordingly, for the purposes of the refundable tax credit for on-the-job training periods, the federal investment tax credit for the creation of apprenticeship jobs constitutes an amount of government assistance and, inversely, for the purposes of the federal tax credit, the Québec tax credit represents an amount of government assistance.

Since the same amounts are likely to enter into the calculation of the eligible expenditure for the purposes of the refundable tax credit for on-the-job training periods and the calculation of the apprenticeship expenditure for the purposes of the federal investment tax credit for the creation of apprenticeship jobs, the two tax credits could be reduced on the basis of each other.

Accordingly, to avoid such circularity, the tax legislation will also be amended so that government assistance for the purposes of the refundable tax credit for on-the-job training periods does not include an amount deductible on account of the federal investment tax credit for the creation of apprenticeship jobs.

The application of this amendment will be declaratory.

## 2.6 International financial centres

Briefly, an international financial centre (IFC) is a business or part of a business established in the Montréal agglomeration all of whose activities pertain to qualified international financial transactions (QIFT). The main benefits stipulated by the tax legislation regarding an IFC include a tax exemption equal to 75% for the business as well as a partial or total exemption from income tax for the employees.

Under the existing rules, an international financial transaction is recognized as a QIFT where, in general, the transaction is carried out on behalf of a person who is not a resident of Canada. Some financial transactions carried out on behalf of a person who is a resident of Canada may also be recognized as a QIFT where, in general, these financial transactions involve financial products relating to foreign markets.

Currently, the provisions of the *Act respecting international financial centres* use the expression "person" for the purposes of determining on behalf of whom a financial transaction must be carried out to constitute a QIFT.

According to currently applicable law, this expression does not include partnerships. Consequently, an international financial transaction carried out on behalf of a partnership cannot constitute a QIFT since the partnership is not a person within the meaning of the *Act respecting international financial centres*.

Moreover, under the *Act respecting international financial centres*, the Minister of Finance can require that the holder of a certificate issued in accordance with the Act to pay an annual contribution allocated to fund activities promoting and developing Montréal as an international finance centre.

The payment details and rates of this contribution are determined by the *Regulation respecting the tariff of fees and the annual contribution payable under the Act respecting international financial centres* (Regulation).

However, the amendment to the Regulation announced in the March 29, 2001 Budget Speech, allowing the Minister of Finance to require that the operator of an IFC, in relation to a calendar year, pay a contribution of $3 000 rather than a contribution of $10 000 where she is of the view that the business of this operator is the continuation of a business recognized as an IFC regarding the preceding calendar year, could not be given effect as stipulated in view of the lack of explicit legislative authorization to that effect in the *Act respecting international financial centres*.

### ❑ Eligibility of international financial transactions carried out on behalf of a partnership

To allow international financial transactions carried out on behalf of a partnership to constitute QIFT, an adjustment will be made to the relevant legislation so that the QIFTs stipulated therein and that target a person henceforth include transactions carried out on behalf of a partnership.

In the particular case where it must be determined whether a partnership is not a resident of Canada at any time, a clarification will also be made to the legislation so that a partnership will be deemed not to be a resident of Canada at such time if, on the one hand, its management and control centre is located outside Canada and, on the other, most of the shares in the income or loss of the partnership are held by one or more members who are not residents of Canada at such time. If these two conditions are not satisfied, the partnership will be deemed to be a resident of Canada.

The application of this amendment will be declaratory.

### ❑ Adjustment allowing a correction to the amount of the annual contribution payable in the case of a business continuation

To act on the amendment announced in the 2001-2002 Budget Speech, an adjustment will be made to the relevant legislation to explicitly authorize the government to make a regulation that may be applicable as of March 29, 2001 and allowing the Minister of Finance to require that the operator of an IFC, in relation to a calendar year, pay a contribution of $3 000 rather than a contribution of $10 000 where she is of the view that the business of this operator is the continuation of a business recognized as an IFC regarding the preceding calendar year.

## 2.7 Improvement to the refundable tax credit for film production services

The refundable tax credit for film production services is designed to stimulate job creation in Québec by encouraging foreign producers to film foreign productions in Québec.

More specifically, the tax credit applies to Québec labour expenditures attributable to the various stages of production or to the carrying out either of a foreign production or a production that does not satisfy the Québec content criteria giving rise to the refundable tax credit for Québec film or television production.

The amount of the tax credit is equivalent to 20% of eligible labour expenditures. Accordingly, assuming such expenditures represent 50% of the costs of production, the effective rate of the tax credit would be 10% of the production costs.

In addition, labour expenditures eligible for the tax credit that relate to computer animation and special effects for use in an eligible production give rise to an increase in the rate of the applicable tax credit. This increase corresponds to an additional rate of 20% of eligible labour expenditures.

Two improvements will make the tax credit for film production services more attractive for foreign producers. First, the basic rate of the tax credit will be raised and, second, the field of application of the improvement for computer animation and special effects will be broadened.

### 2.7.1 Rate of the tax credit increased

To maintain interest among foreign producers in choosing Québec as a film location, the rate of the tax credit for film production services will rise from 20% to 25%.

This change will apply in relation to eligible labour expenditures incurred after the date of publication of this information bulletin.

### 2.7.2 Improvement for computer animation and special effects

The improvement for computer animation and special effects is designed to support the technological development of the industry in Québec by providing additional support regarding labour expenditures relating to the carrying out of computer animation and special effects for use in an eligible film or television production.

Briefly, the labour expenditure eligible for this improvement includes both the salaries paid to employees of the corporation that produces the film and those paid to employees of a technical services company that acts as a sub-contractor for part of the production work that is directly attributable to eligible activities relating to computer animation or special effects that these employees carry out in the course of an eligible production. However, only the remuneration paid to Quebecers or to a corporation with an establishment in Québec for services provided by Quebecers constitutes a labour expenditure eligible for a tax credit.

Moreover, to establish the amount of the labour expenditure directly attributable to eligible activities relating to computer animation and special effects in the course of an eligible production, the expression "computer animation and special effects" means special effects and animation sequences, as generally understood in the industry, created using digital technology.

In addition, the expression "eligible activities" designates only activities that directly contribute to the creation of computer animation and special effects. Accordingly, the increase in tax assistance for computer animation and special effects applies to specific technical positions certified by the Société de développement des entreprises culturelles (SODEC).

Within the last few years, new technological practices are increasingly used in the film world. Such is the case with the shooting of scenes that are subsequently altered with visual effects (shooting of scenes in front of a chromatic screen) that is becoming essential on many sets. However, while scenes are shot in front of a chromatic screen in Québec, certain visual effects can be added to these scenes outside Québec.

Since Québec can only benefit from having foreign productions filmed on its territory and in order for Québec to remain competitive, the improvement for computer animation and special effects must be adjusted to the new realities of the industry.

### ❑ Eligibility of the labour expenditure relating to the shooting of scenes in front of a chromatic screen

According to an administrative practice adopted by the SODEC in 2004, the labour expenditure relating to the shooting of scenes in front of a chromatic screen gives rise to the improvement for computer animation and special effects provided the work on visual effects added to these scenes is otherwise done in Québec.

In this regard, according to this administrative practice, which corresponds to the fiscal policy, the portion of the labour expenditure relating to the shooting of scenes in front of a chromatic screen that is eligible for the improvement is the portion that corresponds to the proportion of the number of minutes of scenes shot before a chromatic screen over the total number of minutes of shooting of the eligible production.

In addition to the proportion relating to the minutes of shooting, where only a portion of the computer animation and special effects is carried out in Québec, the improvement is granted regarding the labour expenditure relating to the shooting of scenes in front of a chromatic screen only on the basis of the Québec share of visual effects contracts.

More specifically, the increase applies to the amount equivalent to the proportion of the value of the computer animation and special effects contracts carried out in Québec over the total value of such contracts carried out in Québec and elsewhere.

Henceforth, for the purposes of the improvement for computer animation and special effects, the shooting of scenes in front of a chromatic screen will constitute on its own an eligible activity relating to computer animation and special effects in the course of an eligible production.

Accordingly, the eligible labour expenditure that relates to computer animation and special effects for use in an eligible production will include the labour expenditure attributable to such shooting.

More specifically, no proportion will be applicable to such expenditure, neither the one relating to the minutes of shooting, nor the one relating to the place where the computer animation and special effects are added to these scenes.

### ❑ Application date

This change will apply in relation to eligible labour expenditures incurred after the date of publication of this information bulletin.

## 2.8 Improvement to the refundable tax credit for Québec film and television production

The refundable tax credit for Québec film and television production applies to labour expenditures incurred by a corporation that produces a Québec film and generally corresponds to 29.1667% of the eligible labour expenditures incurred to produce the film. However, the labour expenditures that give rise to this tax credit cannot exceed 50% of the production costs of the film, such that the tax assistance generally cannot exceed 14.58335% of such costs.

As part of the application of this tax credit, an enhanced tax credit rate of 39.375% is also granted for labour expenditures relating to computer animation and special effects.

However, the labour expenditures eligible for this enhancement cannot exceed 50% of the production costs of the film, such that the tax assistance in this regard generally cannot exceed 19.6875% of production costs.

Moreover, this tax credit can at no time exceed $2 187 500 per film or per series.

Since the situation observed in the field of foreign productions in relation to the shooting of scenes in front of a chromatic screen is also observed in the field of Québec productions, the improvement relating to the shooting of scenes in front of a chromatic screen announced regarding the refundable tax credit for film production services will also apply to the refundable tax credit for Québec film and television production, with the necessary adaptations.

This change will apply in relation to eligible labour expenditures incurred after the date of publication of this information bulletin.

## 2.9 New excluded amount of assistance for the purposes of the tax credits in the cultural field

In general, the amount of any government or non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce in particular the amount of eligible expenditures included in the calculation of any of the tax credits in the cultural field.

The legislation will be amended so that an amount of assistance paid by the Société du 400e anniversaire de Québec constitutes an excluded amount of assistance for the purposes of any of the following tax credits in the cultural field: the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for the production of sound recordings, the tax credit for the production of shows and the tax credit for book publishing.

This change will apply as of December 14, 1999 or, where the tax credit concerned was introduced after that date, on the date the tax credit concerned was introduced.

## 2.10 Information slips reporting income from certain mutual fund trusts and partnerships

On July 4, 2007, the Minister of Finance of Canada submitted draft amendments to federal tax legislation and regulations facilitating the preparation of information slips reporting income from certain mutual fund trusts and partnerships.[23]

More specifically, these measures will reduce delays in the preparation and issuance of information slips (T3) relating to distributions of publicly traded trusts and information slips (T5013) relating to allocations of publicly traded partnerships.

According to the draft regulations, publicly traded trusts and partnerships will have to disclose, for a taxation year or a fiscal year, as the case may be, information on distributions and allocations of income and capital that were made in respect of each of their units in accordance with the new deadline.

Québec's tax legislation and regulations will accordingly be amended to incorporate, with adaptations on the basis of their general principles, the measures relating to the information returns that publicly traded trusts and partnerships must file.

However, these measures will only be adopted once any federal statute has been assented to or any federal regulations arising from them have been adopted, taking into account the changes that may be made prior to such assent or adoption. In addition, these measures will apply as of the same dates as the federal amendments from which they arise.

23 Department of Finance Canada, News Release 2007-058. This measure had previously been proposed in the March 19, 2007 federal Budget Speech (DEPARTMENT OF FINANCE CANADA, *The Budget Plan* 2007, p. 441). Moreover, the Minister of Finance of Canada tabled, on November 13, 2007, a notice of ways and means motion incorporating these measures (News Release 2007-087) and, on November 21, 2007, the corresponding explanatory notes (News Release 2007-089).

# 3. MEASURES RELATING TO CONSUMPTION TAXES

## 3.1 Changes to the QST system pursuant to the reduction of the GST rate

In the October 30, 2007 federal economic statement, the Minister of Finance of Canada proposed that the rate of the goods and services tax (GST) be reduced from 6% to 5% effective January 1, 2008.

Like the reduction of the GST rate from 7% to 6% that took effect July 1, 2006, this new reduction of the federal tax rate will have little impact on the Québec sales tax (QST) system since its rate will remain unchanged at 7.5%. Nonetheless, certain changes will be made to the Québec tax system to reflect, in particular, the fact that the consideration on which the QST is calculated includes the GST.

### ❑ Consequential amendments

The required consequential amendments will be made to the *Act respecting the Québec sales tax* to reflect the effect of the reduction of the federal tax rate on certain amounts stipulated in the Act that are set taking the GST into account. Such is the case, for instance, with the maximum rebate amount for new houses and new rental buildings, which will decline from $5 607 to $5 573.

### ❑ Mathematical rounding-off factors

Since the QST at 7.5% is calculated on a consideration that includes the GST at 6%, the effective rate of the QST is currently 7.95%, whereas the combined effective rate of the GST and the QST is 13.95%. With the reduction of the rate of the GST from 6% to 5%, these effective rates will become 7.875% and 12.875% respectively, once again becoming three-decimal mathematical factors as was the case prior to the reduction of the rate of the GST from 7% to 6% on July 1, 2006.

Prior to that date, the QST system authorized a supplier, in certain circumstances, to determine the amount of the tax payable by a recipient regarding a supply he made to him, by using a cash register calculating this amount with mathematical factors rounded off to two decimals.

Accordingly, to reflect the impact of the reduction of the GST from 6% to 5% on the effective rate of the QST and the combined effective rate of the GST and the QST, the provisions stipulated in the QST system before July 1, 2006 concerning the use of mathematical factors rounded off to two decimals will be reintroduced as of January 1, 2008. For the purposes of these provisions, the effective rate of the QST of 7.875% and the combined effective rate of the GST and the QST of 12.875% will be rounded off to 7.87% and 12.87% respectively.

### ❑ Transitional rebate regarding a residential complex

As was the case when the rate of the GST was reduced from 7% to 6%, a transitional rebate of this tax reflecting the rate reduced to 5% may be claimed by a purchaser of a new residential complex or a substantially renovated residential complex, where the sale of the building is made under a written contract entered into prior to October 31, 2007, and the transfer of ownership and possession take place after December 31, 2007.[24]

Since the QST will have been paid on the amount of GST covered by a transitional rebate, the Québec tax system will be amended to allow a person entitled thereto to claim the rebate of the QST thus paid on such amount.

### ❑ Taxable benefit relating to the operating expenses of an automobile

The GST and QST systems stipulate that if a registrant supplies his employee or his shareholder with a property or a service giving rise to a benefit whose value must be included in the calculation of the employee's or the shareholder's income under the *Income Tax Act* and the *Taxation Act* respectively, the registrant must add in his calculation of his net tax a certain amount of GST or QST, as the case may be, determined with regard to this taxable benefit.

In the case of a taxable benefit relating to the operating expenses of an automobile, the amount of tax to be included in the calculation of the net tax corresponds, in the GST system, to 4% of the value of the benefit and, in the QST system, to 5.3% of such value.

To reflect the reduction of the GST rate, the rate of 4% stipulated in the federal tax system will be reduced to 3% as of taxation year 2008.

Since the federal rate is used to determine the rate stipulated in the Québec tax system, the latter will be adjusted accordingly. Thus, the QST system will be changed to reduce this rate from 5.3% to 4.7% as of taxation year 2008.

## 3.2 Measure designed to curb the remittance of receipts not corresponding to a merchant's true transactions

For some time, a dubious business practice has been observed in the retail sector, mainly among certain merchants operating service stations where products other than fuel are offered. It has emerged that these merchants hand their clients receipts showing only a sale of fuel, even though other products have been purchased, sometimes even when no purchase of fuel was actually made.

24 A transitional rebate may also be obtained in the case of a deemed supply made under the terms of section 191 of the *Excise Tax Act*.

Such a practice is an invitation to tax fraud, since clients carrying on a business could use these receipts to unduly claim a deduction in calculating their income or an input tax refund in their Québec sales tax return for purchases of fuel they never made.

Accordingly, to deter merchants from engaging in this practice, the tax legislation will be amended to prohibit any person from remitting or offering to remit to a client a receipt, invoice or other document reporting a transaction that does not correspond to the one that actually took place between them.

A specific infraction will be introduced for breach of this prohibition with penalties consisting of a fine of at least $400 and no more than $5 000 for a first offence, at least $2 000 and no more than $10 000 for a second offence within five years and, for a subsequent offence within this period, at least $5 000 and no more than $25 000.

These amendments will come into force on the date the bill giving effect to them is assented to.